

STATE BOARD REPORT

Division Of Professional Registration
Published by the Missouri Board of Examiners for
Hearing Instrument Specialists

Volume 9, Issue 1

November 2007

HEARING INSTRUMENT SPECIALISTS ISSUES OF CONCERN

Throughout this past year, the Board has dealt with many issues relating to the practice of fitting hearing instruments. The Board feels the following information is important to note for its licensees.

In June 2007, the Board sent a letter to all business owners and manufacturers in regard to the practice of fitting hearing instruments in the State of Missouri. The Board has concerns regarding sales representatives individually meeting with clients. It has come to the attention of the Board that there may be sales representatives that have contact with individual patients and that may be involved in the direct sale or recommendation of a hearing device.

Section 346.010 (11), RSMo defines the practice of fitting hearing instruments as, “the selection, adaptation, and sale of hearing instruments, including the testing and evaluation of hearing by means of an audiometer and the making of impressions for earmolds.”

It is the Board’s position that a Missouri Hearing Instrument Specialist license is required if an individual is recommending any particular device or helping with the selection of a hearing instrument for a patient. Therefore, if a licensee allows the unlicensed practice of fitting hearing instruments their license may be subject to discipline and they may be charged with a criminal offense.

Also, the unlicensed individual may be charged with a criminal offense.

The information contained in this article is important for licensees to understand and to make certain that they are in compliance with all the laws and rules contained in the Hearing Instrument Specialists Practice Act and Rules. If you do not have a copy of the Practice Act and Rules, please contact our office and a copy will be forwarded to you or you may review the Practice Act and Rules on the Board’s website, www.pr.mo.gov.

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Governor

The Honorable Matt Blunt

Department of Insurance, Financial Institutions and Professional Registration

Douglas M. Ommen, Director

Division of Professional Registration

David Broeker, Director

BOARD OF EXAMINERS FOR HEARING INSTRUMENT SPECIALISTS

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STATE OF MISSOURI

Division of Professional Registration

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P.O. Box 1335, Jefferson City, MO 65102.

MESSAGE FROM DIVISION DIRECTOR

By: David Broeker, Division Director

The Division of Professional Registration has had a busy and successful 2007. It was a year of significant and beneficial accomplishments, not the least of which was a legislative session where 14 of our 16 proposals were truly agreed to and finally passed and signed into law by the Governor Matt Blunt.

Legislation also signed into law by the Governor created the Board of Private Investigator Examiners which went into effect August 28, 2007. This board consists of 5 members; three private investigators and two public members appointed by the Governor with advice and consent of the Senate.

With the addition of the Private Investigator Examiners, the Division of Professional Registration now houses 18 administrative boards, 13 non-administrative (autonomous) boards and 8 advisory boards:

18 Administrative Boards

- State Committee of Interpreters
- Office of Athletics
- Endowed Care Cemeteries
- State Committee of Dieticians
- Board of Geologist Registration
- Board of Examiners for Hearing Instruments Specialists
- Interior Design Council
- Marital & Family Therapists
- Board of Therapeutic Massage
- Board of Occupational Therapy
- Committee for Professional Counselors
- State Committee of Psychologists
- Missouri Real Estate Appraisers Commission
- Missouri Board for Respiratory Care
- State Committee for Social Workers
- Office of Tattooing, Branding & Body Piercing
- Missouri Office of Athletic Agents
- Board of Private Investigator Examiners

13 Non-Administrative Boards

- Board of Accountancy
 - Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects
 - Board of Chiropractic Examiners
 - Board of Cosmetology & Barber Examiners
 - Missouri Dental Board
 - State Board of Embalmers & Funeral Directors
 - State Board of Registration for the Healing Arts
 - Missouri State Board of Nursing
- (continued on pg. 6)

CHAIR'S REPORT

By: Ervin Dock

I would like to take this opportunity to clarify issues that continue to arise regarding the Board's rules and regulations. The Board continues to review complaints where the purchase agreements do not meet the standards of Section 346.020, RSMo. The Board statutes and rules specifically outline what is required for a licensee to be in compliance with the requirements pertaining to purchase agreements. If a purchase agreement is reviewed and violations are noted, the license of the hearing instrument specialist is subject to discipline. If a licensee is employed by a business or company, the licensee must still ensure that the purchase agreement meets the standards of Section 346.020, RSMo.

The Board suggests that not only should all hearing instrument specialists review Section 346.020 Purchase Agreement Contents but also that all licensees take the time to review 20 CSR 2165-3.030 Medical Clearance and Waivers and the FDA requirements for the conditions for sale. When the practice of fitting hearing instruments is performed, purchase agreements are required and the above statute and rules must be adhered to. I have included the required information in this newsletter, once again, for your quick reference.

Section 346.020 Purchase agreement, contents states:

"1) Any person who engages in the practice of fitting hearing instruments shall deliver to each person supplied with a hearing instrument a completed purchase agreement which shall include:

- A. the licensee's signature;
- B. the licensee's business address;
- C. the licensee's license number;
- D. the specific make of the hearing instrument furnished;
- E. the specific model of the hearing instrument furnished;
- F. the specific serial number of the hearing instrument furnished;
- G. the terms of the sale.

2) The terms of the sale shall be clearly stated in the purchase agreement using ordinary English language and terminology which is easily understood by the purchaser. The purchase agreement shall include, at a minimum:

- A. the exact amount of any down payment;
- B. the length of any trial period provided;
- C. the amount of any charges or service fees

connected with any trial period;

D. any right of the purchaser to return the hearing instrument; and

E. if no right exists to return the hearing instruments, the seller shall specify such in writing in the agreement.

3) If a hearing instrument which is not new is sold, the purchase agreement and the container thereof shall be clearly marked as "used", "recased" or "reconditioned", whichever is applicable, with terms of guarantee, if any.

4) If a hearing instrument is remanufactured or assembled by someone other than the manufacturer of the component parts, the purchase agreement shall contain the name of the manufacturer of the component parts and the assembler or reassembler of such hearing instrument."

20 CSR 2165-3.030 Medical Clearance and Waivers states:

"(1) In accordance with federal law, all licensees shall clearly communicate to every purchaser, prior to the purchase, that s/he is not conducting an examination, diagnosis, or prescription by a person licensed to practice medicine in the state of Missouri, and therefore his/her opinions must not be regarded as medical opinion or advice.

(2) It shall be an unfair or deceptive practice for the licensee to misrepresent, either directly or by implication that the services of a physician have been used in the designing or manufacturing of hearing instruments, or in the selection, fitting, adjustment, maintenance, or repair of hearing instruments or ancillary products unless it is true.

(3) A licensee shall not represent, directly or by implication, in any manner as to have the capacity and tendency to mislead prospective purchasers into the belief that justifies disparagement of physicians or any other professional in the medical community.

(4) Should a purchaser refuse to consult a physician after being advised to do so by licensee, the purchaser must sign a medical waiver, in accordance with federal law, which must be a part of or attached to the purchase agreement."

(continued on pg. 4...)

Also, included in the FDA requirements, Section 801.421 Hearing aid devices; conditions for sale states:

“(a) Medical evaluation requirements - (1) General. Except as provided in paragraph (a) (2) of this section, a hearing aid dispenser shall not sell a hearing aid unless the prospective user has presented to the hearing aid dispenser a written statement signed by a licensed physician that states that the patient's hearing loss has been medically evaluated and the patient may be considered a candidate for a hearing aid. The medical evaluation must have taken place within the preceding 6 months.

(2) Waiver to the medical, evaluation requirements. If the prospective hearing aid user is 18 years of age or older, the hearing aid dispenser may afford the prospective user an opportunity to waive the medical evaluation requirement of paragraph (a)(1) of this section provided that the hearing aid dispenser:

(i) Inform the prospective user that the exercise of the waiver is not in the user's best health interest:

(ii) Does not in any way actively encourage the prospective user to waive such a medical evaluation; and

(iii) Affords the prospective user the opportunity to sign the following statement:

I have been advised by _____ (Hearing aid dispenser's name) that the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation by a licensed physician (preferably a physician who specialized in diseases of the ear) before purchasing a hearing aid. I do not wish a medical evaluation before purchasing a hearing aid.”

Please note that item (iii) must be written verbatim, per federal regulations.

The information contained in this article is important for licensees to understand and to make certain that they are in compliance with the rules mentioned in this article and all the laws and rules contained in the Hearing Instrument Specialists Practice Act and Rules.

Ervin Dock, Chair

EXECUTIVE DIRECTOR'S REPORT

BY: DANA K. HOELSCHER, EXECUTIVE DIRECTOR

During the 94th General Assembly, the Missouri Legislature passed Senate Bill 308 and House Bill 780. Senate Bill 308 and House Bill 780 contained language that expands the practice of audiology by adding fitting, programming, and dispensing of assistive listening devices and other amplification systems to the definition of the practice of audiology. This language will allow audiologist to dispense hearing instruments under their scope of practice and eliminate dual licensure.

This language also adds a provision that the Board of Healing Arts will transfer an amount not to exceed sixty-one thousand dollars per transfer as necessary to replace decreased renewal fees received by the Board as a result of the decrease in licensees. The amount of the transfer may decrease each odd numbered year. Any decrease shall be no more than twenty-five percent of the initial transfer amount. The transfer amount shall be requested through the legislative budget process by the director of the Division of Professional Registration, with

the advice and consultation of the Board of Healing Arts and Board of Examiners for Hearing Instrument Specialists. The Board will review all financial data to determine the financial status of the Board and if a fee increase will be required.

Lastly, the bill phases in educational requirements for applicants for licensure as a hearing instrument specialist and for hearing instrument specialist-in-training. Section 346.055, RSMo, states:

“1. An applicant may obtain a license by successfully passing a qualifying examination of the type described in sections 346.010 to 346.250, provided the applicant:

- (1) Is at least twenty -one years of age;
- (2) Is of good moral character; and
- (3) Until December 31, 2008, has an education equivalent to at least a high school diploma from an accredited high school.

(continued on pg 9...)

NEW MEMBER APPOINTED TO THE BOARD



Mark States has been appointed by Governor Matt Blunt to serve as a member of the Board of Examiners for Hearing Instrument Specialists. Mr. States' appointment went into effect on May 9, 2007. He replaces Roger Obermeier.

Mr. States has been licensed as a Hearing Instrument Specialist since 1986. Mr. States is currently the owner of States Hearing Aids in St. Joseph, MO.

Mr. States term as member of the Board of Examiners for Hearing Instrument Specialists expires January 11, 2010.

MEET THE MEMBERS OF THE BOARD OF EXAMINERS FOR HEARING INSTRUMENT SPECIALISTS

The Missouri Board of Examiners for Hearing Instrument Specialists would like to take this opportunity to introduce the members of the Board. Listed below are the current members of the Board.



Ervin Dock
Springfield, MO
Chair
Term Expires: 1/11/09



Linda Engelmann
Liberty, MO
Member
Term Expires: 1/11/11



Linda Curbow, Au.D.
Springfield, MO
Vice-Chair
Term Expires: 1/11/08



Martin Struckhoff
Washington, MO
Member
Term Expires: 1/11/09



Mark States
St. Joseph, MO
Member
Term Expires: 1/11/10



Theresa Parker
Kansas City, MO
Member
Term Expires: 1/11/10



Lois Reine
Jefferson City, MO
Public Member
Term Expires: 1/1/08

Division Director's Report *continued...*

- State Board of Optometry
- Missouri Board of Pharmacy
- State Board of Podiatric Medicine
- Missouri Real Estate Commission
- Missouri Veterinary Medical Board

8 Advisory Boards

- Advisory Commission for Dental Hygienists
- Advisory Commission for Anesthesiology Assistants
- Missouri Acupuncturist Advisory Commission
- Athletic Trainer Advisory Commission
- Advisory Commission for Clinical Perfusionists
- Advisory Commission for Physical Therapists
- Advisory Commission for Registered Physician Assistants
- Advisory Commission for Speech Pathologists & Clinical Audiologists

On September 26, 2007, the Division held a board orientation and update. The Honorable Jay Wasson, District 141, Missouri House of Representatives headlined the state officials and Division staff who participated in the day-long event. Representative Wasson is Chairman of the House Professional Registration Committee and offered considerable insight on the legislation process. Special thanks to Representative Wasson for joining us during the afternoon session. We were also pleased to have participation from staff members of the Governor's Office, Secretary of State's Office, and the Joint Committee on Administrative Rules.

The Division Mission is:

- Protect the Public ...
from incompetence, misconduct, gross negligence, fraud, misrepresentation and dishonesty.
- License only "qualified" professionals...
by examination and evaluation of minimum competency.
- Enforce standards...
by implementing legislation and administrative rules.

I am proud to be associated with a team of dedicated employees who take this mission seriously.

David Broeker
Division Director

CONTACT WITH MEMBERS OF THE BOARD

The Missouri Board of Examiners for Hearing Instrument Specialists purpose is to regulate the practice of fitting hearing instruments involving public health, safety and welfare of this state; to protect the inhabitants of this state from harm due to dangerous, dishonest, incompetent or unlawful practice of fitting hearing instruments and to implement and sustain a system of examination and regulation of hearing instrument specialists in training and licensed hearing instrument specialists in this state.

The Board would like to remind you that when Board members are contacted directly by a licensee or individual regarding an application for licensure, a complaint, investigation, or disciplinary process, any information given to that Board member could sway his or her unbiased opinion. A Board member receiving communication that could sway his or her opinion may be required to recuse themselves and not take part in a vote on the matter. This could put the Board member in an awkward position while trying to do his or her job and could put the licensee at a disadvantage.

It is strongly encouraged and recommended that all questions and concerns be referred to the Board's office. Board staff handles all the day-to-day functions of the Board. Therefore, questions can be answered based on full Board decisions and lessen miscommunication between the Board and its licensees. If questions are on complex issues, we might recommend requesting, in writing, an advisory opinion from the Board. Our hope is to make it as easy as possible for licensees to comply with Board Statute and Regulations.

Please keep in mind that individual Board members are *not* authorized to make a decision for the entire Board.

2007 CALENDAR OF EVENTS

The next meeting of the Missouri Board of Examiners for Hearing Instrument Specialist is scheduled on November 29-30, 2007. The meeting will be held at the Division of Professional Registration, Jefferson City, Missouri. The Practical Examination will be administered after the meeting on November 30th. The Written Examination will be administered on December 7, 2007.

For further information regarding meeting dates and times, please feel free to contact the Board's central office at (573) 751-0240. You may also obtain meeting and examination information by visiting our website, www.pr.mo.gov.

IMPORTANT INFORMATION REGARDING THE RENEWAL OF YOUR LICENSE

Please be advised that renewal notices have been mailed to all Hearing Instrument Specialists. If you have not received your renewal notice, please call the Board's office at (573) 751-0240. Your hearing instrument specialists license expires on December 31, 2007. Renewal notices are mailed to your address of record on file at the Board office. If you move it is your responsibility to notify the Board office of your new address within 30 days so that we can update your record. Failure to receive an application for renewal of a license does not relieve the licensee from their duty to timely renew, nor does it relieve them from the obligation to pay any additional fee(s) necessitated by late renewal.

Renewal applications are not valid unless signed. Renewal applications that are incomplete or submitted without the correct fee will be returned. It is the licensees responsibility to ensure that the renewal form is completed and returned in a timely manner. A licensee who fails to renew by the renewal date shall not practice in Missouri. Licensees practicing in Missouri without a renewed license are subject to discipline by the Board.

New Licensees

July 1, 2006 to June 30, 2007

Cara R. Achenbach	Diana S. Combs	Crystal S. Jones	Lucye J. Ritchey
Tara J. Anderson	Terri Davis	Kenneth W. Kidd	Melissa M. Sestak
Bruce A. Belcher	James Dean	Julia A. Lipinski	Dustin S. Spaulding
Mary C. Bollinger	Emily Earnest	Bruce L. Mayhew	Mark Starkey
Kristen E. Bretz	Rick Elliott	Andrew A. Morrill	Karen A. Tutt
Dorothy L. Bull	Heidi S. Frazier	Kate E. Nielson	Andrea M. Vinyard
Jamie H. Cadieux	Maria S. Goldenberg	Angie S. Reeder	Patricia J. Webber
Charles K. Cason	Kimberlee M. Griffey	Carol A. Reitzel	Megan L. Widger
Shelia S. Cockman	Robert G. Hutchison		

New Temporary Permit Holders

July 1, 2006 to June 30, 2007

Richard McDowell	Nathan Northup	Duawana Cantrell	Donald Haltli
Rick Elliott	Robert Taylor	Melissa Lee	Shawn Stanley
Andrew Morrill	Angela Jones	Jon Wood	Larry Warren
Mary Boyer	Roberta Beile	Rod Steiner	Rebekah Drska
Debbie McKuin	Carol Reitzel	Tom Wright	Susanna Bono
Kenneth Kidd	Sabrena Rikard	Cynthia Bradley	Darrel House
Nathan Northup			

Recently Registered Supervisors

July 1, 2006 to June 30, 2007

Pam K. Borum	Bernard Libel
Kathryn M. Grote	Jennifer L. Stedman
Trisha K. Hackman	Janelle C. Scanlon
Roy L. Jones	

END OF YEAR REPORT - FISCAL YEAR 2007

Board activities as they relate to the hearing instrument specialist profession - 7/1/06 to 6/30/07

Total Number of Licenses - 504
 New Licenses Issued - 35
 By Examination - 17
 By Endorsement - 18
 Reciprocity - 0
 Temporary Permits Issued - 24

Registration of Supervision
 Certificates Issued - 7

COMPLAINTS

Official Complaints Received - 13
 Investigations Conducted - 2
 Disciplinary Actions Taken - 0

2. Beginning January 1, 2009, an applicant for a hearing instrument license or a hearing instrument specialist-in-training permit shall demonstrate successful completion of a minimum of sixty semester hours, or its equivalent, at a state or regionally accredited institution of higher education.

3. Beginning January 1, 2011, an applicant for a hearing instrument specialist license or a hearing instrument specialist-in-training permit shall hold an associate's level degree or higher from a state or regionally accredited institution of higher education.

4. Beginning January 1, 2013, or any date thereafter when an associate degree program in hearing instrument sciences is available from a state or regionally accredited institution within Missouri, an applicant for a hearing instrument specialist license or a hearing instrument specialist-in-training permit shall hold:

(1) An associate's degree or higher in hearing instrument sciences; or

(2) A master's or doctoral degree in audiology from a state or regionally accredited institution.

5. The provisions of subsection 2, 3, and 4 of this section shall not apply to any person holding a valid Missouri hearing instrument specialist license under this chapter when applying for the renewal of that license. These provisions shall apply to any person holding a hearing instrument specialist-in-training permit at the time of their application for licensure or renewal of said permit."

This language will become effective July 1, 2008. Therefore, if you are licensed as an audiologist and hearing instrument specialist and wish to dispense hearing instruments prior to July 1, 2008, you are required to renew your hearing instrument specialist license during this renewal period. The Board will be working on implementing any necessary rules needed to comply with the legislative changes and will keep all licensees advised of changes that will occur. If you have any questions, please contact the Board's office.

Dana K. Hoelscher, Executive Director

TERM FULFILLED

On behalf of the Board of Examiners for Hearing Instrument Specialists, we would like to sincerely thank Roger Obermeier for his dedication to the Board and exemplary services rendered to the people of the State of Missouri while serving on the Board. Mr. Obermeier served as a member of the Board of Examiners for Hearing Instrument Specialists from April 21, 2004 to May 9, 2007.

Mr. Obermeier was a great asset to the Board and his presence and wealth of knowledge will be greatly missed. We would like to take this opportunity to wish Mr. Obermeier the very best with his future endeavors.

Thank You!

STATE BOARD REPORT
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Missouri Board of Examiners for Hearing Instrument Specialists
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Jefferson City, MO 65102
(573)526-3856 (Fax)
Mail or Fax to:

Signature: _____ Date: _____

Phone Number: _____

New Address: _____

Old Address: _____

Name: _____ License Number: _____

PLEASE NOTIFY THE BOARD OFFICE OF YOUR NEW ADDRESS:

